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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,230	10/17/2001	Steven B. McGowan	INTL-0625-US (P11956)	5567

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EXAMINER
EISEN, ALEXANDER

ART UNIT	PAPER NUMBER
2674	

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _12 July 2004_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-23_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-23_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _12 July 2004_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)./Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Drawings

1.   The drawings were received on 12 July 2004. These drawings (replacement sheet for

FIGS. 5 and 6) are approved.

Amendment

2.   Claims 3, 9 and 12 have been currently amended; claims 24 and 25 cancelled by previous

amendment; claims 1-23 are pending in present application.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making
> and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it
> pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode
> contemplated by the inventor of carrying out his invention.

4.   Claims 3 and 4 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply

with the written description requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to reasonably convey to one skilled in the relevant

art that the inventor(s), at the time the application was filed, had possession of the claimed

invention. The limitation in claim 3 "set by a user prior to storage of a first sequence of frames"

does not have support in the specification as originally filed. The specification simply cites in

paragraph [0030]: "Initially, the setup software 30 sets a default loop length. When the user

enters set-up mode, the software 30 prompts the user to enter a loop length, as shown at block

32, for example, by enabling the display and displaying some form of menu selections. The loop

length is the duration of the predetermined sequence of frames. Thus, the user may provide an

input that is detected at diamond 34. Once the input is received, the loop length is set as indicated

in block 36.", it does not explicitly provide for aforesaid limitation.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

6.   Claims 1, 2 and 5-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Sisselman, US 2003/0007079 A1 in view of Kawamura et al., (hereinafter Kawamura), US

5,153,569 (both references are references of record).

With respect to claims 1 and 25, Sisselman discloses a personal hand-held viewing device

(FIG. 5) comprising an optics element (lens 310) to facilitate viewing; an image sensor to capture

frames (as part of image signal processor 320, see paragraph [0029]); a storage (RAM 370) to

store sequence of frames of predetermined duration (see paragraph [0032]), whereas the storage

is coupled to said sensor; a display (380) coupled to said storage to display the sequence of

frames; and a controller (microprocessor 350) to automatically store successive sequence of

frames of predetermined duration including an earlier and later sequences, earlier and later

sequences can be seen as a first loop and a second loop; said controller storing the later sequence

of frames in the storage and automatically overwriting an earlier sequence and play back either

said first loop in response to a user input or a second loop ([0037], FIGS. 6 and steps 620-640 in

flow-chart diagram in FIG.8; also paragraphs [0033 – 0036]).

Sisselman does not disclose an optic element to enable the user to selectively view a scene or the display through the optic element.

Kawamura teaches a personal viewing device (FIGS. 10-11) capable of delivering real scene or recorded image displayed on a display to a user, and having an optic element (shutter) for selectively view a scene or the display (FIG. 4; col. 3, line 47 - col. 4, line 17).

It would have been obvious to one of ordinary skill in the art at the time when the invention was made to modify the viewing device of Sisselman with optical arrangement of Kawamura, because it would improve the former with the ability to switch between viewing a real scene or pre-recorded images from the display at user's discretion without the viewer's need to take off the viewing device (Kawamura; col. 7, lines 19-28).

In regard to claim 2, Sisselman further teaches that the device controller loops back to a first sequence and overwrites the first sequence of frames with a second sequence of frames and with a third or fourth sequence after that (see paragraph [0033] and FIG. 6).

With regard to claims 5 - 7, the device of Sisselman is a camera with a magnifying (zoom) feature, and as such is effectively a camera, telescope or microscope when the functions it is capable of performing are taken into consideration.

As to claim 8, Sisselman teaches a digital record and replay binoculars.

As to claim 9, Kawamura teaches a beam splitter (2) arranged to pass light from the scene (trough the shutter 3) or from the display (7).

As to claims 10 and 25, Kawamura teaches the shutter (3) to control viewing access to the optic element (beam splitter 2).

As to claim 11, Kawamura further teaches that the device selectively enables a user to view the display or a scene through the optic element.

As to claim 12, the only viewing means that the device of Sisselman has is the display (120), which is built-in into housing (110) (see FIGS. 1-4; paragraph [0025]).

As to claim 13, the controller enables a user to select when to display a sequence of frames of predetermined duration (see relevant function of replay button 190 in paragraphs [0028] and [0031]).

With respect to claim 14, Sisselman teaches the device corresponding method, wherein a sequence of frames of predetermined duration is recorded and consequently is overwritten by a following sequence of frames, and in response to a user selection allows to the user to view a recorded sequence of frames (see related discussion regarding claim 1). Kawamura teaches enabling a user to selectively (by switching LCD shutter 3 and controlling display driving circuitry) view recorded images or an actual scene through the same viewing port.

As to claim 15, Sisselman further teaches that the aforementioned method includes storing a first sequence and then looping back to the beginning of the first sequence and overwriting the first sequence with a second sequence of frames (see also discussion related to claim 2).

In regard to claim 16, the method involves an integral number of sequences of frames of predetermined duration.

As to claims 17 and 18, Sisselman further teaches that the method enabling a user to select to view either real time scene or recorded sequence of frames by choosing a playback mode (paragraph [0028]).

As to claim 19, Sisselman teaches a processor-based system for implementing a method of recording, overwriting and selectively viewing a recorded sequence of frames. While Sisselman does not explicitly teach that the processor includes a medium for storing instructions that enables it to execute the aforementioned method, it is notoriously known that the processor-based systems inherently have a medium for storing instruction that are being executed by the processor in order to make the processor-based system viable (see, for example a flow-chart in FIG. 8 reflecting a program executed by the processor). Kawamura teaches viewing the recorded images or a real scene using the same viewing port.

As to claim 20, see discussion related to claims 2 and 15.

As to claim 21, see discussion related to claim 3 and 16.

As to claims 22 and 23, see rejection related to claims 13, 17 and 18.

Response to Arguments

7.   Applicant's arguments have been considered but are not persuasive. Applicant argues (page 7) that "where a later sequence is stored and overwrites the earlier sequence, the ability to select the earlier sequence or the later sequence for play back does not exist". Examiner respectfully disagrees. As Sisselman discloses in [0035], once the loop of segments is broken, the viewer may replay the action in isolated memory segments forward and backward as desired while going forward and backward through the isolated segments, while live action continues to be written into remaining segments. By pressing required number of times the replay button the viewer can cause a playback of predetermined segment. All segments have initially a predetermined length (timewise or frame-wise), such as 3 or 5 seconds, for example [0032], and as such can be viewed as multiple loops with predetermined (equal) duration. As it was

mentioned before these loops can be played back at user's discretion in integer multiples

selectively, i.e. pressing the replay button twice would activate the playback of two just

previously stored segments. Applicant further argues (page 8) that "the number in a reformed

loop is dependant upon what memory segment is currently being written" and therefore "any

reformed loop that does not include isolated segments is of unknown length before the user took

the action". Examiner respectfully disagrees. The length of a replay can be selected by a user

without knowing in what way the loop of segments is broken. Simply pressing the replay button

a required number of times defines the length of the replay (i.e. pressing the button twice will

cause 6 second of replay if each segments has 3 second of storage capacity) .

The rejections of claims 1, 2 and 5-23 is maintained.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office

action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is

reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Eisen whose telephone number is (703) 306-2988. The examiner can normally be reached on M-F (8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala can be reached on (703) 305-4938. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alexander Eisen
Primary Examiner
Art Unit 2674

19 December 2004